

**H.R. 5498, THE WMD PREVENTION AND PREPAREDNESS ACT OF 2010**

*As introduced by Rep. Bill Pascrell (D-NJ) and Rep. Peter King (R-NY)*

*On June 10, 2010*

**EXECUTIVE SUMMARY**

**Purpose:** To enhance homeland security by improving efforts to prevent, deter, prepare for, detect, attribute, respond to, and recover from an attack with a weapon of mass destruction (WMD) and for other purposes.

This bill addresses the range of actions necessary to counter the WMD threat - including the threat of a biological attack - as identified through the Committee on Homeland Security's oversight work and the recommendations of the Commission on the Prevention of WMD Proliferation and Terrorism in their final report, entitled "World At Risk." The bill addresses all aspects of the security and emergency management framework - **prevention and deterrence, preparedness, detection, attribution, response, and recovery.**

**TITLE I: INTELLIGENCE MATTERS**

***SEC. 101. National Intelligence Strategy for Countering the Threat from WMD.***

This section requires the Director of National Intelligence, in consultation with the Secretary of Homeland Security and the heads of other appropriate Federal Departments and agencies, to develop and implement a National Intelligence Strategy for Countering the Threat from Weapons of Mass Destruction. (ADDRESSES WORLD AT RISK RECOMMENDATIONS 10, 11 AND 12.)

***SEC. 102. National Intelligence Strategy for Countering Biological Threats.***

This section requires the Director of National Intelligence, in consultation with the Secretary of Homeland Security and the heads of other appropriate Federal Departments and agencies, to build on the National Intelligence Strategy for Countering Biological Threats (initially produced in 2007), and expand efforts to create a national cadre of biological experts. (ADDRESSES WORLD AT RISK RECOMMENDATIONS 2-2, 10, 11 AND 12.)

**TITLE II: HOMELAND SECURITY MATTERS**

***SEC. 201. WMD Prevention and Preparedness.***

This section amends the Homeland Security Act of 2002 by adding a new title regarding WMD prevention and preparedness. Subsections are as follows:

**Subtitle A - Prevention and Deterrence**

***SEC. 2101. WMD Intelligence and Information Sharing Unit.***

This subsection establishes a Homeland Security WMD Intelligence and Information Sharing unit at the Department of Homeland Security (DHS). (ADDRESSES WORLD AT RISK RECOMMENDATION 10.)

***SEC. 2102. Information Sharing and Collaboration for Biosecurity and Biodefense.***

This subsection requires the Secretary of Homeland Security to increase situational awareness by integrating national biosecurity and biodefense stakeholders into the homeland security intelligence and information sharing process (ADDRESSES WORLD AT RISK RECOMMENDATION 10.)

***SEC. 2103. Bioterrorism Risk Assessments.***

This subsection requires the Secretary of Homeland Security, in coordination with the heads of other appropriate Federal Departments and agencies, to produce biennial integrated Bioterrorism Risk Assessments to identify and assess evolving biological risks to the nation. (ADDRESSES WORLD AT RISK RECOMMENDATIONS 2-2.)

***SEC. 2104. Enhanced Biosecurity Measures.***

This subsection requires the Secretary of Homeland Security, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the heads of other appropriate Federal Departments and agencies, to convene a negotiated rulemaking committee that develops enhanced biosecurity measures for persons or laboratories that possess, use, or transfer Tier 1 Material Threat Agents. The negotiated rulemaking committee shall include representatives from DHS, the Department of Agriculture (USDA), the Department of Defense (DOD), the Department of Energy (DOE), the Department of Health and Human Services (HHS), the Department of Justice (DOJ), for-profit research institutions, academic research institutions, non-profit research institutions, and other stakeholders.

The Secretary of Agriculture and the Secretary of Health and Human Services are required to conduct inspections to enforce rules established by the negotiated rulemaking committee, in consultation with the Secretary of Homeland Security. The Secretary of Agriculture and the Secretary of Health and Human Services are also charged with developing training programs in accordance with the rules developed by the negotiated rulemaking committee, in coordination with the Secretary of Homeland Security. The Secretary of Agriculture and the Secretary of Health and Human Services are required to transmit information on inspections they conduct of laboratories that possess Tier 1 Material Threat Agents to the Secretary of Homeland Security to ensure uniformity in enforcement. Additionally, this section provides for coordination of simultaneous inspections, as well as common inspection procedures, by the Departments of Health and Human Services and Agriculture. Finally, this section directs that inspection reports be made available to each Federal agency that supports select agent activities at these laboratories. (ADDRESSES WORLD AT RISK RECOMMENDATIONS 1-3 AND 1-4.)

***SEC. 2105. Tier 1 Material Threat Agent Locations.***

This section requires the Secretary of Agriculture and the Secretary of Health and Human Services to provide the Secretary of Homeland Security with lists of laboratories and other locations where Tier 1 Material Threat Agents are present in the United States and its territories. (ADDRESSES WORLD AT RISK RECOMMENDATIONS 1-3 AND 2-2.)

***SEC. 2106. High Containment Biological Laboratory Security Grants.***

This subsection permits the Secretary of Homeland Security to provide grants to academic and non-profit organizations and to State, local, and tribal governments to enhance the biosecurity of those laboratories that handle Tier 1 Material Threat Agents and other agents requiring high containment. (ADDRESSES WORLD AT RISK RECOMMENDATION 1-3.)

***SEC. 2107. Laboratory Biosecurity Information Sharing.***

This subsection requires the Secretary of Homeland Security to establish procedures, with appropriate controls on access, for the sharing of homeland security information, including vulnerability assessments, security plans, best practices, and other laboratory biosecurity-related information with State, local, and tribal government authorities, including law enforcement officials and emergency response providers. (ADDRESSES WORLD AT RISK RECOMMENDATION 1-3.)

***SEC. 2108. Periodic Homeland Security Review of Criminal Statutes.***

This subsection requires the Secretary of Homeland Security, in coordination with the Attorney General and the heads of other appropriate Federal Departments and agencies, to periodically review and recommend updates to criminal laws to ensure that such laws are well suited to the evolving risks of misuse of life sciences and to ensure scientific and other relevant communities at unique risk of exploitation have access to guidance regarding actions that can reduce these risks. (ADDRESSES WORLD AT RISK RECOMMENDATIONS 1-4.)

***SEC. 2109. Export Enforcement for Counter-Proliferation.***

This subsection authorizes the Secretary of Homeland Security, in coordination with the Secretary of Commerce, the Secretary of Defense, the Attorney General, the Secretary of State, the Director of National Intelligence, and the heads of other appropriate Federal Departments and agencies, to conduct homeland security investigations and enforce criminal violations of U.S. customs and export laws related to military items, controlled commodities, and sanctioned or embargoed countries to prevent terrorist groups from illegally obtaining sensitive U.S. technology and munitions, and obtaining WMD components, precursors, and delivery systems. This section also directs the Secretary of Homeland Security to conduct industry outreach with manufacturers and/or exporters of strategic technologies or commodities. Additionally, this section establishes a National Export Enforcement Coordination Network at DHS to coordinate law enforcement counter-proliferation investigations and intelligence counter-proliferation activities, address licensing, and coordinate outreach to and training for the export trade community. (ADDRESSES WORLD AT RISK RECOMMENDATION 10.)

### **Subtitle B - Preparedness**

#### ***SEC. 2121. Communication of Threat Information and Alerts.***

This subsection directs the Secretary of Homeland Security, in coordination with appropriate Federal agencies, to ensure that homeland security information concerning terrorist threats deemed to be credible is provided to State, local, and tribal authorities and to the public within the United States, as appropriate. (ADDRESSES WORLD AT RISK RECOMMENDATION 13.)

#### ***SEC. 2122. Individual and Community Preparedness for WMD.***

This subsection requires the Secretary of Homeland Security, acting through the Administrator of the Federal Emergency Management Agency (FEMA), to assist State, local, and tribal governments in improving and promoting individual and community preparedness and collective response to WMD and terrorist attacks against the nation. The FEMA Administrator shall develop and disseminate guidelines and checklists of recommended actions, compile and distribute best practices, provide training materials, and conduct outreach efforts for individual and community prevention and preparedness. (ADDRESSES WORLD AT RISK RECOMMENDATIONS 1-5 AND 13.)

### **Subtitle C - Detection**

#### ***SEC. 2131. National Biosurveillance Strategy.***

This subsection requires the Secretary of Homeland Security to examine the state of domestic and global biosurveillance and develop a national strategy for biosurveillance that includes plans for advancing situational awareness, identifying key elements of information to be shared, and fostering information sharing, as well as strategic and implementation plans for the National Biosurveillance Integration Center. (ADDRESSES WORLD AT RISK RECOMMENDATION 2-2.)

#### ***SEC. 2132. Detection of Biological Attacks.***

This subsection establishes the DHS biological detectors program (BioWatch) within DHS, and directs the Secretary of Homeland Security to contract with participating laboratories for the provision of laboratory services and administrative costs on a fee-for-service or similar basis. This section also directs the Secretary, acting through the Under Secretary for Science and Technology and in consultation with the Director of the Centers for Disease Control and Prevention (CDC), to implement an assay equivalency program for biological threat assays, making standards available to support all other Federal biological monitoring programs. (ADDRESSES WORLD AT RISK RECOMMENDATION 1-5.)

#### ***SEC. 2133. Rapid Biological Threat Detection and Identification.***

This subsection permits the DHS Under Secretary for Science and Technology, in consultation with the heads of other relevant operational components of DHS, to assess whether the DHS Science and Technology Directorate should develop screening capabilities for biological WMD agents, pandemic influenza, and other infectious diseases for entry and exit screening at ports of entry. If the Under Secretary determines

that the development of such screening capabilities should be undertaken, the Secretary of Homeland Security shall initiate development of safe and effective methods to rapidly screen incoming travelers at ports of entry for these agents and diseases. (ADDRESSES WORLD AT RISK RECOMMENDATION 1-5.)

***SEC. 2134. Establishment of the System Assessment and Validation for Emergency Responders (SAVER) Program.***

This subsection directs the Secretary of Homeland Security, acting through the DHS Under Secretary for Science and Technology, to assess and validate commercial emergency responder equipment and systems (including hand-held detectors for WMD agents), provide results to the emergency response provider community in an operationally useful form, provide information on equipment on the DHS authorized equipment list, enable decision-makers and responders to better select, procure, use, and maintain emergency responder equipment, and share this information nationally with the emergency response provider community. (ADDRESSES WORLD AT RISK RECOMMENDATION 1-5.)

***SEC. 2135. Payment for Laboratory Response Network for Bioterrorism Services (LRN).***

This subsection authorizes the Secretary of Homeland Security, the Attorney General, and the heads of other participating Federal agencies to contract with State and local LRN laboratories for testing services on a fee-for-service, or similar basis. (ADDRESSES WORLD AT RISK RECOMMENDATION 1-5.)

***SEC. 2136. Establishment of the Integrated Consortium of Laboratory Networks (ICLN).***

This subsection establishes the ICLN within DHS and requires the ICLN to detect and respond quickly to acts of terrorism, to support effective all-hazard laboratory response, to support the Federal Bureau of Investigation and other law enforcement agencies with responsibilities for investigating incidents involving WMD and/or their agents, and to support threat agent characterization studies and assay evaluation, research, and development. (ADDRESSES WORLD AT RISK RECOMMENDATION 1-5.)

**Subtitle D - Attribution**

***SEC. 2141. Bioforensics Capabilities and Strategy.***

This subsection directs the Secretary of Homeland Security, in coordination with the Attorney General, the Secretary of Agriculture, Secretary of Defense, the Secretary of Health and Human Services, the Director of National Intelligence, and the heads of other appropriate Federal Departments and agencies, to develop, coordinate, and maintain a national bioforensics strategy to increase national bioforensic capabilities, and to create a national reference collection of organisms for bioforensic purposes. This section also establishes the National Bioforensics Analysis Center (NBFAC) within DHS and requires the NBFAC to maintain the national bioforensics repository collection. (ADDRESSES WORLD AT RISK RECOMMENDATION 1-2.)

***SEC. 2142. Law Enforcement Training to Investigate Biological Threats.***

This subsection directs the Secretary of Homeland Security, in coordination with the Attorney General, the Secretary of Agriculture, the Secretary of Health and Human Services, and the heads of other appropriate Federal Departments and agencies, to make training, tactics, and tools available to law enforcement, public health, and security personnel for recognizing and responding to situations involving potential biological threats, including the performance of coordinated joint criminal and epidemiological investigations. (ADDRESSES WORLD AT RISK RECOMMENDATION 1-2.)

**Subtitle E - Response**

***SEC. 2151. First Responder Guidance Concerning WMD Attacks.***

This subsection requires the Secretary of Homeland Security, in consultation with the heads of appropriate Federal Departments and agencies, the National Advisory Council, State, local, and tribal officials, nongovernmental organizations, and private industry, to develop voluntary guidance for police, fire, emergency medical services, emergency management, hospitals, and public health personnel on responding to an explosion or release of chemical, biological, radiological, or nuclear material and to make this guidance available to State, local, and tribal governments, nongovernmental organizations, the private sector, and the public. The Secretary shall inventory existing relevant HAZMAT response guidelines, enable first responders to identify areas in need of guidance, prioritize guidance to be developed or revised, and disseminate the guidance. (ADDRESSES WORLD AT RISK RECOMMENDATIONS 1-5 AND 13.)

***SEC. 2152. Integrated Plume Modeling for Collective Response.***

This subsection requires the Secretary of Homeland Security, in consultation with the Secretary of Defense, the Secretary of Energy, the Secretary of Health and Human Services, the heads of other appropriate Federal Departments and agencies, State, local, and tribal governments, and nongovernmental organizations, to acquire, use and disseminate timely integrated plume models (integrating protective action guidance and other appropriate information) to enable rapid response to a chemical, biological, radiological, or nuclear explosion or release. (ADDRESSES WORLD AT RISK RECOMMENDATION 1-5.)

**Subtitle F - Recovery**

***SEC. 2161. Recovery and Restoration from a Biological Attack or Incident Guidelines.***

This subsection requires the Secretary of Homeland Security, in coordination with the Administrator of the Environmental Protection Agency (EPA) and in consultation with the Director of the Occupational Safety and Health Agency, and the Director of the National Institute for Occupational Safety and Health, to develop and issue guidelines for clean-up and restoration of indoor and outdoor areas that have been affected by the release of a biological agent. (ADDRESSES WORLD AT RISK RECOMMENDATION 1-5.)

***SEC. 2162. Environmental Recovery from Chemical, Biological, Radiological, and Nuclear Attacks.***

This subsection directs the EPA Administrator, in coordination with the FEMA Administrator, to assess capability gaps in recovery preparedness and provide guidance to State, local, and tribal officials to recover from a chemical, biological, radiological, or nuclear incident. (ADDRESSES WORLD AT RISK RECOMMENDATION 1-5.)

***SEC. 202. Definitions.***

This section defines the following terms for purposes of Title II of this bill: WMD, intelligence community, national biosecurity and biodefense stakeholders, and Tier 1 Material Threat Agent.

***SEC. 203. Dual-Use Terrorist Risks from Synthetic Genomics.***

This section requires the DHS Under Secretary of Science and Technology to examine and report to the Congress on the homeland security implications of the dual-use nature of synthetic genomics and, if the Under Secretary determines that such research is appropriate, conduct research in that area. (ADDRESSES WORLD AT RISK RECOMMENDATION 1-4.)

***SEC. 204. Dissemination of Information Analyzed by DHS to State, Local, Tribal and Private Entities with Responsibilities Relating to Homeland Security.***

This section expands the list of entities in section 201(d)(8) of the Homeland Security Act of 2002 to which DHS disseminates information to State, local, tribal and private sector entities with homeland security responsibilities, and as appropriate, to the public, in order to assist in preventing, deterring, or responding to acts of terrorism against the United States. This section also requires the Secretary of Homeland Security to submit a report to Congress on the implementation of subsection 2121 (see above) within one year of enactment.

***SEC. 205. National Biosurveillance Integration Center (NBIC).***

This section moves the NBIC to the Office of Intelligence and Analysis at DHS (and out of the DHS Office of Health Affairs) and requires participating Federal departments and agencies to detail personnel on a reimbursable basis. (ADDRESSES WORLD AT RISK RECOMMENDATION 10.)

***SEC. 206. Deadline for Completion of Methods to Rapidly Screen Travelers at Ports of Entry.***

This section requires the Secretary of Homeland Security to complete the development of the methods to rapidly screen travelers at ports of entry (see subsection 2133, see above) within 90 days of enactment. (ADDRESSES WORLD AT RISK RECOMMENDATION 1-5.)

***SEC. 207. Report on Establishment of the SAVER Program.***

This section requires the Secretary of Homeland Security to submit a report to Congress on the SAVER program (see subsection 2134 above) within one year of enactment. (ADDRESSES WORLD AT RISK RECOMMENDATION 1-5.)

***SEC. 208. National Academy of Sciences Study of Forensic Science in Homeland Security.***

This section directs the Secretary of Homeland Security, acting through the DHS Under Secretary for Science and Technology, to enter into an agreement with the National Academy of Sciences to undertake a study (building on previous studies conducted by the Academy) on the role of forensic science in homeland security and to issue appropriate recommendations to

enhance this homeland security capability to investigate WMD attacks, terrorist incidents, and other crimes investigated by DHS. (ADDRESSES WORLD AT RISK RECOMMENDATION 1-2.)

***SEC. 209. Harmonization of Regulations.***

This section harmonizes regulations in the Homeland Security Act of 2002, the Public Health Service Act, and the Agricultural Bioterrorism Protection Action of 2002 to ensure that such regulations are not redundant or in conflict with the regulations promulgated under subsection 2104 of the Homeland Security Act of 2002.

***SEC. 210. Communications Planning for WMD Information Dissemination.***

This section requires the Secretary, acting through the FEMA Administrator, in consultation with State, local, and tribal governments and in coordination with the heads of other appropriate Federal Departments and agencies, to develop a communications plan for providing information to the public related to preventing, preparing for, and responding to attacks with WMD and acts of terrorism. The FEMA Administrator shall incorporate this plan into FEMA operational plans. This section also directs the FEMA Administrator to develop and disseminate pre-scripted messages and message templates to State, local, and tribal officials so that they can incorporate them into emergency plans, and quickly disseminate critical information to the public in anticipation or in the immediate aftermath of a WMD attack or terrorist incident. (ADDRESSES WORLD AT RISK RECOMMENDATION 13.)

***SEC. 211. Report on Recovery from Chemical, Biological, Radiological, and Nuclear Attacks.***

This section requires the EPA Administrator to submit a report to Congress on the assessment required by subsection 2162 (see above) within one year of enactment. (ADDRESSES WORLD AT RISK RECOMMENDATION 1-5.)

**TITLE III: PUBLIC HEALTH MATTERS**

***SEC. 301. National Medical Countermeasure Dispensing Strategy.***

This section requires the Secretary of Health and Human Services, in coordination with the Secretary of Homeland Security, the Secretary of Agriculture, and the heads of other appropriate Federal Departments and agencies, to develop and implement a National Medical Countermeasure Dispensing Strategy to enhance preparedness and collective response to an attack on humans or animals with a chemical, biological, radiological, or nuclear agent. (ADDRESSES WORLD AT RISK RECOMMENDATION 1-5.)

***SEC. 302. Material Threat Assessments and Determinations.***

Recognizing the evolving nature of the threat, advances in technology, and changing priorities, this section requires the Secretary of Homeland Security, in consultation with the Secretary of Health and Human Services and the heads of other appropriate Federal Departments and agencies, to review and reassess existing material threat determinations and determine whether the agents addressed continue to present a material threat against the United States population sufficient to affect national security and homeland security. (ADDRESSES WORLD AT RISK RECOMMENDATION 1-5.)

***SEC. 303. National Pre-Event Vaccination and Antimicrobial Distribution Policy Review.***

This section requires the Secretary of Health and Human Services, in coordination with the Secretary of Homeland Security, to review the adequacy of domestic vaccination and antimicrobial dispensing policy, guidance, and information provided to the public in light of known terrorist risks of biological attacks or events with significant health consequences to the United States. If certain biological agents pose material threats to the United States, then different policies may be needed (e.g., first responders could be allowed to be immunized against these agents on a voluntary basis, expiring or surplus vaccines and antimicrobials might be released from the national stockpile for more immediate use, etc.). (ADDRESSES WORLD AT RISK RECOMMENDATION 1-5.)

***SEC. 304. Designation of Tier 1 Material Threat Agents.***

This section requires the Secretaries of Agriculture and Health and Human Services, in coordination with the Secretary of Homeland Security and the heads of other appropriate Federal Departments and agencies, to issue regulations to create a top tier of select agents that are considered material threats to the United States (Tier 1 Material Threat Agents), and that, therefore, require additional security. Criteria for designation include whether the agent or toxin can be used effectively in a biological attack; information available from biological or bioterrorism risk assessments; and other criteria and information that the Secretary of Health and Human Services, in coordination with the Secretary of Homeland Security, determine appropriate and relevant. (ADDRESSES WORLD AT RISK RECOMMENDATION 1-3.)

***SEC. 305. Background Checks.***

This section requires the Attorney General to coordinate with the Secretary of Homeland Security, the Secretary of Defense, and the Secretary of State to determine if these Departments possess any information relevant to the identification of individuals who should not be given access to select agents because they are reasonably suspected of knowing involvement with an organization that engages in domestic or international terrorism or with any other organization that engages in intentional crimes of violence. (ADDRESSES WORLD AT RISK RECOMMENDATIONS 1-3 AND 10.)

***SEC. 306. Biotechnology Research, Development, and Procurement.***

This section requires the Secretary of Health and Human Services to develop a comprehensive research, development, and acquisition process to counter the biological threat that employs the inherent functions, capabilities, authorities, and responsibilities of the National Institutes of Health, the Biodefense Advanced Research and Development Authority, and the Project BioShield Special Reserve Fund. (ADDRESSES WORLD AT RISK RECOMMENDATION 1-5.)

**TITLE IV: FOREIGN RELATIONS MATTERS**

***SEC. 401. International Collaboration and Information Sharing Relating to Biosecurity.***

This section directs the Secretary of State, in coordination with the Secretary of Homeland Security and the heads of other appropriate Federal Departments and agencies, to support efforts in other countries to share information regarding biological attacks and events with significant

health consequences through United Nations organizations, to prevent misuse of life sciences, and to enhance global biosecurity. (ADDRESSES WORLD AT RISK RECOMMENDATIONS 2-2 AND 2-3.)

***SEC. 402. International Engagement to Enhance Biodefense and Biosecurity.***

This section requires the Secretary of State, in coordination with the Secretary of Homeland Security and the heads of other appropriate Federal Departments and agencies, to comprehensively address biosecurity in the international arena. Issues to be addressed include criminalizing the use of biological weapons or acts of bioterrorism, prevention of bioterrorism and the misuse use of life sciences, supporting efforts to enhance biosecurity and biosafety, and information sharing. (ADDRESSES WORLD AT RISK RECOMMENDATIONS 1-4.)

***SEC. 403. Interagency Task Force on Best Practices for Global Biopreparedness.***

This section expresses the sense of Congress that preparedness for a chemical, biological, radiological, or nuclear incident must be undertaken not only domestically but also internationally. It also requires the Secretary of State to convene an interagency taskforce to examine the state of global preparedness for a major biological attack or event and identify best practices for preparedness based on lessons learned from domestic efforts that may be useful or applicable internationally. The task force shall include representatives from DHS, USDA, DOD, DOJ, the State Department, the United States Agency for International Development, the DNI, other appropriate Federal Departments and agencies, and other appropriate national biosecurity and biodefense stakeholders. (ADDRESSES WORLD AT RISK RECOMMENDATIONS 1-4.)

***SEC. 404. Biological and Toxin Weapons Convention (BWC).***

This section requires the Secretary of State to promote the BWC by promoting transparency, pursuing compliance diplomatically, promoting universal BWC membership, developing an action plan for increasing international adherence to the BWC, and ensuring US participation in BWC meetings is broadly inclusive of representatives from relevant Federal Departments and agencies. (ADDRESSES WORLD AT RISK RECOMMENDATIONS 2-4.)